Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of:	)	
Implementing the Infrastructure Investment and Jobs Act: Prevention and Elimination of Digital Discrimination	)	DA/FCC #: FCC-22-21 Docket/RM: 22-69

REPLY COMMENTS OF THE JOINT CENTER FOR POLITICAL AND ECONOMIC STUDIES ON ENSURING EQUITABLE DEPLOYMENT OF BROADBAND IN THE BLACK RURAL SOUTH

Spencer Overton
President, Joint Center for Political and Economic Studies
633 Pennsylvania Ave, NW
Washington, DC 20004
202-789-3500
SpencerOverton@JointCenter.org

June 30, 2022

TABLE OF CONTENTS

I. Introduction and Summary of Argument.....3

II. The Economic History and Future of the Black Rural South….....5

III. Black Households in the Black Rural South are Among the Most Unserved by Broadband in the United States 10

IV. The BEAD Provisions of the Federal Infrastructure Law Require that States Prioritize Expanding Broadband to Unserved Locations.....14

V. Absent Concerted Efforts, States Could Deploy Federal Infrastructure Resources in Ways That Expand Broadband Disparities in the Black Rural South.....15

VI. Initial Steps to Ensure Equitable Deployment of Federal Infrastructure Resources.....18

VII. Conclusion… 22

I. Introduction and Summary of Argument

The Joint Center for Political and Economic Studies respectfully submits these comments to prevent digital discrimination by ensuring that Infrastructure Investment and Jobs Act broadband resources are equitably deployed in the Black Rural South.*

The Joint Center is America's Black think tank. Spencer Overton serves as the president of the Joint Center and is a tenured professor of Law at George Washington University. He is a co-author of the Joint Center report *An Introduction to the Future of Work in the Black Rural South*, and an editor of the Joint Center report *Affordability & Availability: Expanding Broadband in the Black Rural South*.[1]

Access to broadband is a problem in both metropolitan and rural areas, but efforts to close the digital divide often overlook the Black Rural South. Too often, national broadband conversations conflate rural with "white" and point to affordability as the reason for racial disparities in

* The author thanks Harin Contractor and Dr. Dominique Harrison for their outstanding research on the economy and broadband the Black Rural South. Much of the data and some of the language in this document on the current status of the economy and broadband in the Black Rural South originated in their Joint Center reports. Thanks also to Paula Boyd, Kemah Dennis-Morial, Emilio Gonzalez, Dr. John Horrigan, Nicolaine Lazarre, Antonio Williams, and Scott Woods for exchanges that helped develop some of the ideas in this document.

[1] Harin Contractor and Spencer Overton, "An Introduction to the Future of Work in Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, February 2020); Dominique Harrison, "Affordability & Availability: Expanding Broadband in the Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, October 2021).

broadband adoption in metropolitan areas. The discussions rarely examine the unique plight of Black residents of rural communities.[2]

As detailed below, a disproportionately large percentage of Black households in the Black Rural South are unserved by broadband. High-speed broadband is not available to many Black Rural South households because the service has not been deployed by an internet service provider. Even in areas where high-speed broadband infrastructure is available, a large percentage of Black households in the region are low-income and find the service unaffordable.

The federal infrastructure law, which requires that states prioritize expanding broadband to unserved locations, represents a once-in-a-generation opportunity to expand broadband in the Black Rural South.

States could, however, exclude Black communities in the Black Rural South from state buildout plans, and deploy federal infrastructure resources in ways that expand racial disparities in broadband availability. For example, Southern state officials could prioritize broadband deployment in areas populated by the bulk of their political supporters. Even absent intentional exclusion from deployment plans, Black community leaders in the Black Rural South may be less able to participate in the state broadband planning process due to limited resources and a need to focus on other pressing problems such as managing wastewater or expanding access to drinking water and power.

[2] Notable exceptions include Stephen G. Katsinas, Noel E. Keeney, Emily Jacobs, Emily G. Corley, and Hunter Whann, "Internet Access Disparities in Alabama and the Black Belt" (Tuscaloosa: University of Alabama Education Policy Center, 2020).

This concern is not conjecture — other race-neutral laws intended to facilitate economic mobility have increased racial disparities. For example, researchers found that the G.I. Bill increased racial disparities in wealth because Black World War II veterans were less able to take advantage of the G.I. Bill's tuition and housing benefits.

While no one solution will ensure that states equitably deploy the federal infrastructure law's broadband provisions, state governments, the Federal Communications Commission (FCC), the National Telecommunications and Information Administration (NTIA), and local leaders in the Black Rural South all have important roles to play in mitigating the possibility of inequitable deployment.

II. The Economic History and Future of the Black Rural South

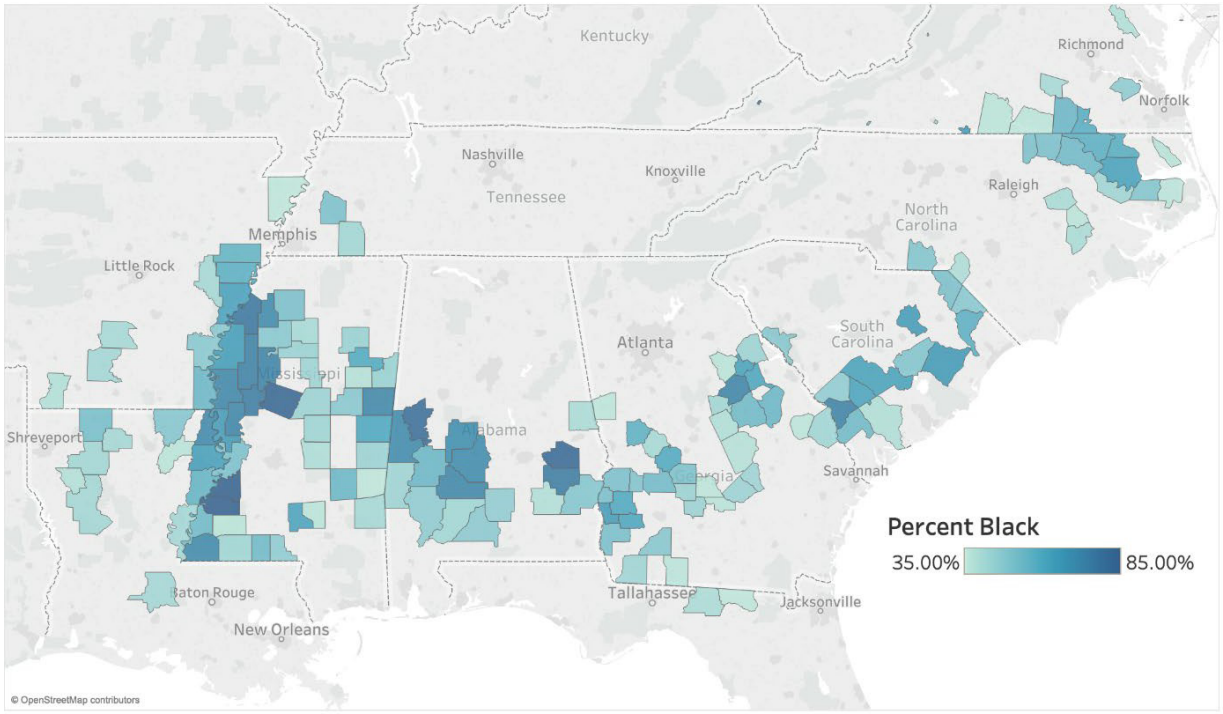
The Black Rural South consists of U.S. counties designated as "rural" by the U.S. Department of Agriculture and with populations that are at least 35 percent African American.[3] The 152 counties that meet this definition are spread across 10 states (Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia) and are home to approximately 3.2 million residents. Black people collectively make up 49.2 percent of the region's

[3] Harin Contractor and Spencer Overton, "An Introduction to the Future of Work in Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, February 2020), pp. 36-38. The Joint Center's February 2020 report on the Future of Work in the Black Rural South was based on 2013-17 data, and 156 counties were 35 percent Black and designated as rural by the USDA. The Joint Center's October 2021 broadband report was based on 2015-19 data, and 152 counties are 35 percent Black and designated as rural by the USDA. Any definition of Black Rural South is underinclusive, as large concentrations of rural African Americans live in parts of counties that do not meet our 35 percent Black threshold. Recognizing that many datasets are organized by

county, we aimed to isolate counties that were clearly part of the Black Rural South to understand the region's distinctive characteristics relative to other parts of the nation. Thus, the observations contained in this document are applicable to address the needs of many Black rural communities outside the 152 counties we defined as the Black Rural South.

population, and narrowly edge out white people as the largest racial group.[4] By comparison, African Americans account for nearly 13 percent of the U.S. population and 8 percent of the total U.S. rural population.[5]

Counties of the Black Rural South



Historically, the region is the origin of American economic strength. Just after the ratification of the U.S. Constitution, unpaid Black labor in the Black Rural South was used to undercut and displace China and India as the world's top producer of cotton, and allowed the United States to

[4] U.S. Census Bureau, "DP05: ACS Demographic and Housing Estimates," American Community Survey 5-Year Estimates, 2013-17.
[5] U.S. Department of Agriculture, "Rural America at a Glance: 2018 Ed." (Washington, DC: Economic Research Service, USDA, 2018), p. 3.

quickly became a world economic superpower.[6] Cotton accounted for over half of U.S. exports for the first six decades of the 1800s,[7] and facilitated the creation of many other U.S. industries outside of the South such as New England textile mills, shipping lines along the east coast, and banking and insurance industries. Even after the Civil War and the abolition of slavery, Jim Crow segregation was used to limit opportunities of Black communities and ensure an ample supply of low-wage labor to produce cotton. Cotton continued to be the leading U.S. export until the 1930s,[8] and cotton farming continued to rely on low-wage Black labor until the industry was almost fully automated in the late 1960s.[9]

While cotton produced through slavery and segregation laid the foundation for the United States to be at the center of our globally interconnected economy,[10] the Black communities that remain in the Black Rural South continue to experience some of the most severe poverty and

---

[6] Harin Contractor and Spencer Overton, "An Introduction to the Future of Work in Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, February 2020), pp. 9-11.

[7] Sven Beckert, "Slavery and Capitalism," *The Chronicle of Higher Education*, December 12, 2014 ("More than half of the nation's exports in the first six decades of the 19th century consisted of raw cotton, almost all of it grown by slaves.").

[8] Gene Dattel, "Cotton, the Oil of the Nineteenth Century," *The International Economy* 24, no. 1 (Winter 2010) ("Cotton was the leading American export from 1803 to 1937").

[9] Willis Peterson and Yoav Kislev, "The Cotton Harvester in Retrospect: Labor Displacement or Replacement?" *Journal of Economic History*, 46, no.1 (March 1986): 206 (finding that only six percent of U.S. cotton was harvested mechanically in 1949, compared to 96 percent by 1969).

[10] Sven Beckert, "Slavery and Capitalism," *The Chronicle of Higher Education*, December 12, 2014 ("Just as cotton, and with it slavery, became key to the U.S. economy, it also moved to the center of the world economy and its most consequential transformations: the creation of a globally interconnected economy . . . Our modern world originates in the cotton factories, cotton ports, and cotton plantations of the 18th and 19th centuries In the first 300 years of the expansion of capitalism, particularly the moment after 1780 when it entered into its decisive industrial phase, it was not the small farmers of the rough New England countryside who established the United States' economic position. It was the backbreaking labor of unremunerated American slaves in places like South Carolina, Mississippi, and Alabama.").

socioeconomic challenges in the United States.[11] Most areas of the United States have enjoyed moderate to significant employment since 2001, but the Black Rural South has experienced negative employment growth.[12] Much of the Black Rural South's job loss comes from the decline of manufacturing, likely due to outsourcing and automation. The Black Rural South lost over 100,000 manufacturing jobs from 2001 to 2017 — or almost 40 percent of the region's manufacturing jobs.[13] This loss is twice as high as the loss in non-South rural counties.

Absent significant policy interventions that provide pathways to a new economy for residents of the Black Rural South — including but not limited to universal broadband — these trends will likely continue over the next decade. The Joint Center's analysis of county-level data from McKinsey Global Institute indicates projected net job growth of negative nine percent for the Black Rural South between 2017 and 2030.[14] By comparison, distressed rural areas nationwide could on average experience net job growth of negative three percent, healthier rural areas could experience net job growth of one percent, and various types of metro areas could experience net job growth of six to 17 percent.[15]

---

[11] Harin Contractor and Spencer Overton, "An Introduction to the Future of Work in Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, February 2020) (detailing high unemployment rates and percentage of children below the poverty line in the Black Rural South, and the low labor force participation rates, median household income, median household earnings, and educational attainment in the region), pp. 18-27.

[12] Harin Contractor and Spencer Overton, "An Introduction to the Future of Work in Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, February 2020), pp. 31-34.

[13] Harin Contractor and Spencer Overton, "An Introduction to the Future of Work in Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, February 2020), 32.

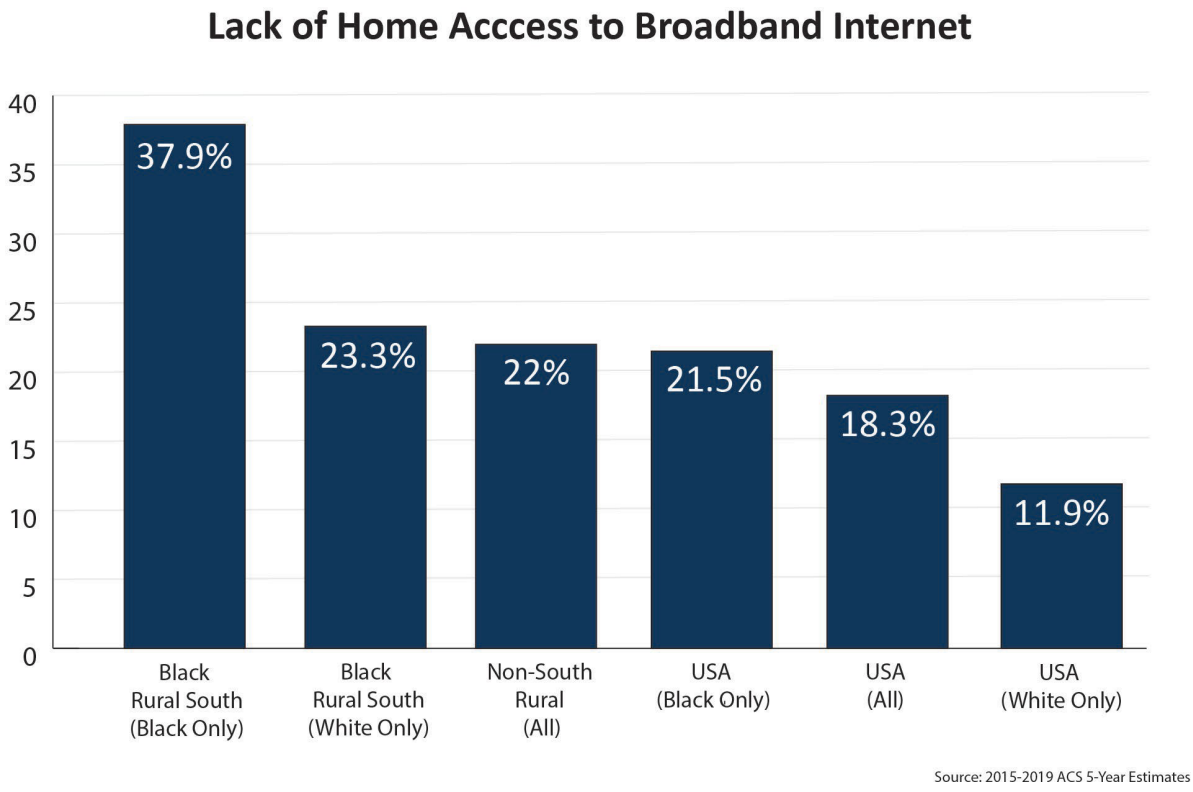
[14] Harin Contractor and Spencer Overton, "An Introduction to the Future of Work in Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, February 2020), 33.

[15] Susan Lund, The Future of Work in America: People and Places, Today and Tomorrow, (McKinsey Global Institute, July 2019), 49.

Expanding broadband in the Black Rural South can help to start to address these issues, and facilitate job and business growth, higher incomes, and better health care and educational opportunities to Black residents of the Black Rural South. This should be important not only to current residents of the Black Rural South, but to all Americans.

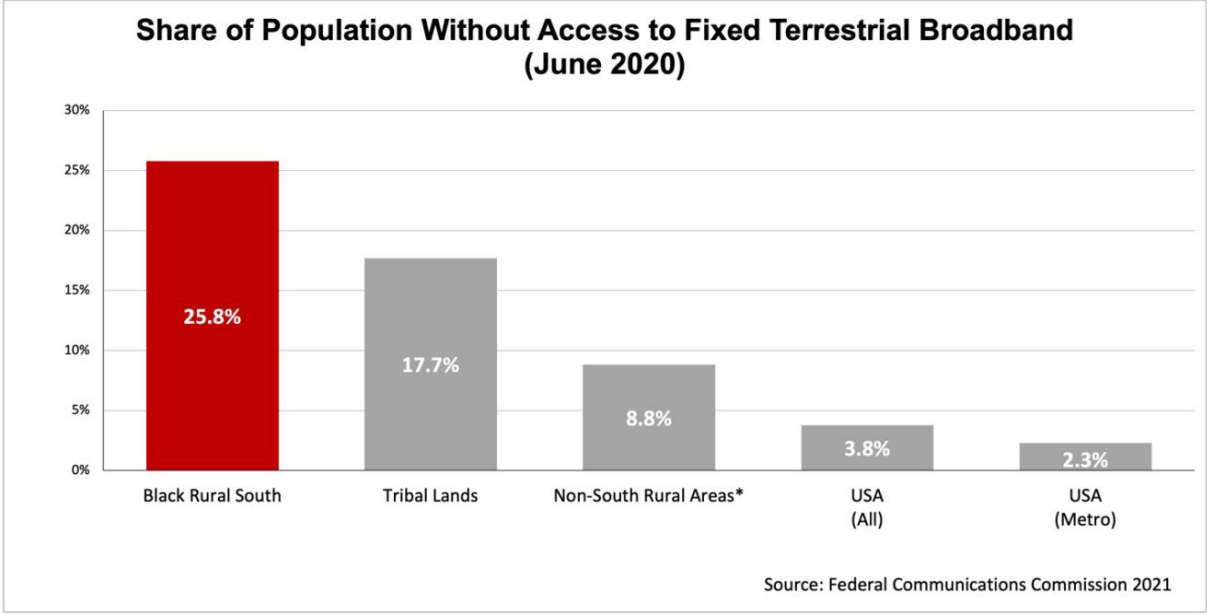
III. Black Households in the Black Rural South are Among the Most Unserved by Broadband in the United States

Across the United States, approximately 18 percent of all Americans report lacking home access to the internet. Outside the South, 22 percent of rural residents lack home internet access, as do almost 22 percent of African Americans nationwide and 23 percent of white Americans who live in the Black Rural South. In contrast, almost 38 percent of African Americans in the Black Rural South lack broadband access.[16]



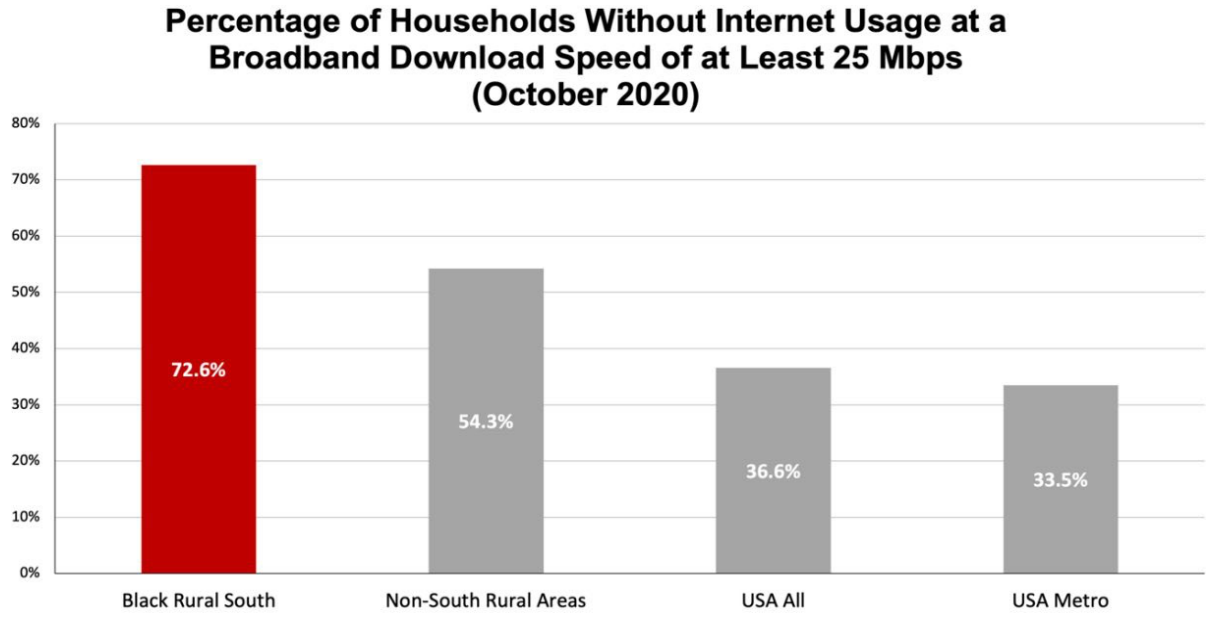
[16] U.S. Census Bureau, "2015-19 Current Population Survey Data" (Washington, DC: Census, various years).

High-speed broadband is unavailable in many parts of the Black Rural South. According to FCC data from 2021, in the Black Rural South over 25 percent of residents lack the option to subscribe to high-speed broadband, which is much higher than the rest of the country — including other rural areas and tribal lands.[17]



[17] The analysis of this data was originally published in Dominique Harrison, "Affordability & Availability: Expanding Broadband in the Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, October 2021), p. 16. *See also* Steven Rosenberg, "Fixed Broadband Deployment Data: June 2020 V1" (Washington DC: FCC, April 13, 2021); Kelsey Berkowitz and Jim Kessler, "The Racial Equality and Economic Opportunity Case for Expanding Broadband" (Washington, DC: Third Way, February 1, 2019). In rural America, broadband availability is 16 percentage points higher in majority-White counties than majority African American counties.

These disparities could be much greater, because past FCC data has been criticized as underestimating those without access to broadband.[18] For example, Microsoft data shows that 72.6 percent of Black Rural South households do not use high-speed broadband.[19]

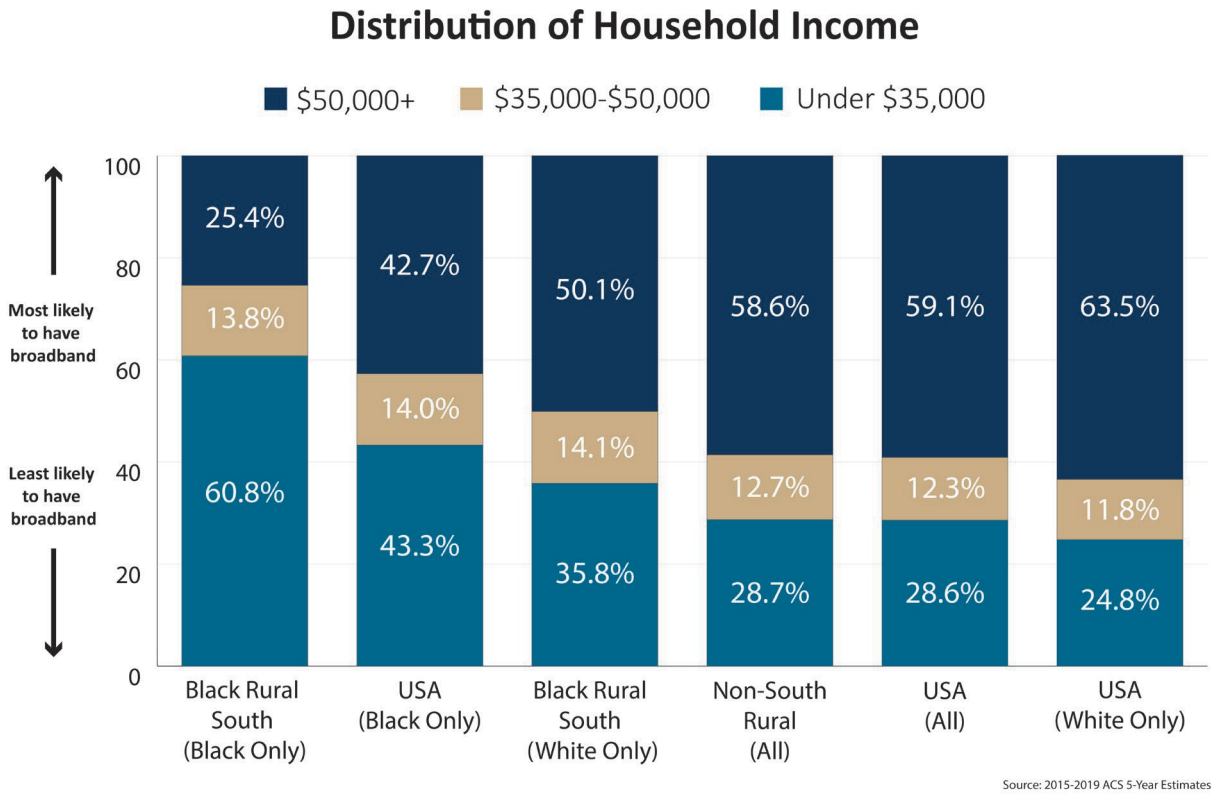


Source: Microsoft 2021

[18] John Busby, Julia Tanberk, and Tyler Cooper, "BroadbandandNow Estimates Availability for all 50 States" (Washington, DC: BroadbandNow, May, 27, 2021) (estimating that at least 42 million Americans do not have access to broadband, compared to the FCC's 2020 estimate that 14.5 lack access).

[19] The analysis of this data was originally published in Dominique Harrison, "Affordability & Availability: Expanding Broadband in the Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, October 2021), p. 17.

Poverty is another reason that many Black households in the Black Rural South lack broadband. The Pew Research Center, for example, estimates that nationwide, 44 percent of households with incomes less than $35,000 lack broadband while only 13 percent of those with incomes $50,000 or above do.[20] In other words, nationwide–households with incomes less than $35,000 are three times more likely to lack broadband than households with incomes above $50,000. In the Black Rural South, 60.8 percent of Black households have incomes less than $35,000, which is much higher than national averages.[21]



[20] Pew Research Center, "Internet/Broadband Fact Sheet," (Washington DC: June 12, 2019).
[21] The data are based on the Census Bureau's 2015-19 American Community Survey, 2015-2019 5-Year Public Use Microdata Sample [SAS Data file]. The analysis of this data was originally published in Dominique Harrison, "Affordability & Availability: Expanding Broadband in the Black Rural South" (Washington, DC: Joint Center for Political and Economic Studies, October 2021), p. 20.

IV. The BEAD Provisions of the Federal Infrastructure Law Require that States Prioritize Expanding Broadband to Unserved Locations

The recently enacted federal Infrastructure Investment and Jobs Act (the "federal infrastructure law") provides $42.5 billion for the NTIA to establish and launch the Broadband Equity, Access and Development (BEAD) Program.[22] The purpose of the BEAD program is "to bridge the digital divide" by allocating resources to states to build out broadband access, infrastructure, and digital equity/inclusion in unserved and underserved areas like many in the Black Rural South.

The bulk of BEAD resources are intended to be allocated by NTIA to states to build out broadband projects in unserved and underserved locations.[23] "Unserved locations" are locations that have no access to broadband service or lack reliable broadband service of at least 25/3 mbps,[24] while "underserved locations" are those that are not "unserved" but lack reliable broadband service of at least 100/20 mbps.[25]

States that want to receive federal infrastructure law money for broadband projects in unserved locations must apply by submitting a letter of intent, an initial proposal, and a final proposal to NTIA.[26] States are directed to distribute the money by prioritizing *unserved service projects* (projects where at least 80 percent of broadband-serviceable locations served by the project are

---

[22] Infrastructure Investment and Jobs Act, Sec. 60102 (b)(1)&(2).
[23] Almost 80% of the $42.5B allocated for the BEAD program -$33 billion – is to be allocated by NTIA to states for building out broadband projects in unserved and underserved locations.
[24] Infrastructure Investment and Jobs Act, Sec. 60102 (a)(1)(A) **(**"UNSERVED LOCATION.—The term ''unserved location'' means a broadband-serviceable location, as determined in accordance with the broadband DATA maps, that— (i) has no access to broadband service; or (ii) lacks access to reliable broadband service offered with—(I) a speed of not less than—(aa) 25 megabits per second for downloads; and (bb) 3 megabits per second for uploads; and (II) a latency sufficient to support real-time, interactive applications").
[25] Infrastructure Investment and Jobs Act, Sec. 60102 (a)(1)(C) **(**"(C) UNDERSERVED LOCATION.—The term ''underserved location'' means a location—(i) that is not an unserved location; and (ii) as determined in accordance with the broadband DATA maps, lacks access to reliable broadband service offered with—(I) a speed of not less than—(aa) 100 megabits per second for downloads; and (bb) 20 megabits per second for uploads; and (II) a latency sufficient to support real-time, interactive applications").
[26] Infrastructure Investment and Jobs Act, Sec. 60102 (e)(1), (3) & (4).

unserved locations).[27] After "certifying to the Assistant Secretary [of NTIA] that the State will ensure coverage of all unserved locations within the State," the State is directed to prioritize *underserved service projects* (projects where at least 80 percent of broadband-serviceable locations served by the project are unserved or underserved locations).[28]

V. Absent Concerted Efforts, States Could Deploy Federal Infrastructure Resources in Ways That Expand Broadband Disparities in the Black Rural South

While the federal Infrastructure Investment and Jobs Act represents a once-in-a-generation opportunity to expand broadband in the Black Rural South, absent a concerted effort to ensure equity in implementation the law could expand existing disparities. If state governments do not prioritize areas that are most unserved — like many parts of the Black Rural South — the law could increase disparities.

A similar phenomenon occurred with the World War II Servicemen's Readjustment Act of 1944 — commonly known G.I. Bill — a race-neutral law which researchers have observed expanded racial disparities in wealth because it disproportionately benefited white veterans.[29] Redlining and

[27] Infrastructure Investment and Jobs Act, Sec. 60102 (a)(1)(B)&(D) **(**"UNSERVED SERVICE PROJECT.—The term ''unserved service project'' means a project in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations. . . . . UNDERSERVED SERVICE PROJECT.—The term ''underserved service project'' means a project in which not less than 80 percent of broadband-serviceable locations served by the project are unserved locations or underserved locations."); 47 USC 1702. Infrastructure Investment and Jobs Act, Sec. 60102 (h)(1)(i)(I)&(II) ("(1) ORDER OF AWARDS; PRIORITY.— (A) IN GENERAL.—An eligible entity, in awarding subgrants for the deployment of a broadband network using grant funds received under this section, as authorized under subsection (f)(1)— (i) shall award funding in a manner that— (I) prioritizes unserved service projects; (II) after certifying to the Assistant Secretary that the eligible entity will ensure coverage of broadband service to all unserved locations within the eligible entity, prioritizes underserved service projects ").

[28] *Id.*

[29] Juan F. Perea, Richard Delgado, Angela Harris, Jean Ann Stefancic, and Stehanie M. Wildman,

"Race and Races: Cases and Resources for a Diverse America" (3d Edition, 2014), 156-162 (detailing racial disparities created by the G.I. Bill's education benefit and housing benefit).

racially-restrictive covenants prevented Black veterans from buying homes in neighborhoods that qualified for federally-backed mortgages, and thus Black veterans were less able to take advantage of the G.I. Bill's mortgage guarantee benefit. Similarly, due to rules restricting Black students at many colleges and universities, Black veterans were less able to take advantage of the G.I. Bill's tuition benefit. Limited access by Black veterans to two primary determinants of intergenerational wealth — home ownership and higher education — increased disparities in wealth.

A similar phenomenon could occur with the deployment of broadband infrastructure resources in the United States.

Southern statewide political leaders have made decisions that adversely affect Black state residents, who are often not a part of the political base of many Southern statewide leaders.[30] Southern states like Mississippi, Georgia, and Alabama rejected Medicaid expansion, for example, and as a result 617,000 Black uninsured adults fall into the "coverage gap" and are ineligible for Medicaid coverage (Black Americans account for about 13 percent of the U.S. population but almost 28 percent of the total adult population in the coverage gap).[31] Just like politicians gerrymander electoral districts, if Southern state politicians draw "unserved project" areas to prioritize their political supporters and exclude Black communities within the Black Rural South, broadband disparities could increase. Disparities could expand beyond broadband access to business and jobs if state officials favor political supporters in selecting contractors, subcontractors, and workers to implement broadband buildout.

[30] In Georgia in 2018, for example, exit polls show that 93% of Black voters cast ballots against

the current governor. CNN Exit Polls, Georgia Governor 2018.

[31] Amantha Artiga, Latoya Hill, Kendal Orgera, Anthony Damico, "Health Coverage by Race and Ethnicity, 2010-2019" (KFF, July 16, 2021) ("Uninsured nonelderly Black people are more likely than White people to fall in the Medicaid 'coverage gap' because a greater share live in [the 12] states that have not implemented the Medicaid expansion. Most of these states are in the South, where a higher share of the Black population resides."); Gideon Lukens and Breanna Sharer, "Closing Medicaid Coverage Gap Would Help Diverse Group and Narrow Racial Disparities" (Center on Budget and Policy Priorities, June 14, 2021) (finding that 617,000 Black uninsured adults fall into the coverage gap — 28 percent of the total adult population in the coverage gap)

Even if state leaders do not intentionally exclude the Black Rural South, inequitable buildout may occur. For example, in convening local stakeholders to develop a state letter of intent, initial proposal, and final proposal, state leaders may fail to include key Black leaders from the Black Rural South because the state leaders have limited relationships with this group.

Even if invited, Black leaders in the Black Rural South may be less able to participate in the state broadband planning process because many leaders are focused on other pressing problems addressed by the federal infrastructure law (e.g., wastewater, drinking water, roads, power). Further, the limited local tax base of Black Rural South localities may prevent them from retaining the technical experts necessary to effectively participate in the broadband planning process. The broadband provisions of the federal infrastructure law also require a matching contribution of at least 25 percent of the project costs by a state or its subgrantee,[32] and if Southern states choose to require that participating localities cover some of this match Black Rural South localities with limited tax revenues may determine they are unable to afford broadband for their unserved residents. Also, because of limited social networks, state officials may learn of and invite Black

[32] Infrastructure Investment and Jobs Act, Sec. 60102 (h)(3)(A)(i) ("In allocating grant funds received under this section for deployment of broadband networks, an eligible entity shall provide, or require a subgrantee to provide, a contribution, derived from non-Federal funds (or funds from a Federal regional commission or authority), except in high cost areas or as otherwise provided by this Act, of not less than 25 percent of project costs").

leaders from the Black Rural South to stakeholder planning sessions after other stakeholders have already met and established the basic contours of the buildout plan.

VI. Initial Steps to Ensure Equitable Deployment of Federal Infrastructure Broadband Resources

While no silver bullet will ensure equitable deployment of the infrastructure law's broadband provisions, state governments, the FCC, NTIA, and local leaders in the Black Rural South all have a role in mitigating inequitable deployment.

State governments should deploy BEAD funds based on need rather than politics. To administer the state application process and deployment, states should not choose political entities, but instead entities that have technical knowledge of broadband and relationships with communities of the Black Rural South — and understand the nuances, history, and culture of Black communities in the region.

States should include representatives of various Black communities from the Black Rural South throughout the planning processes, and not simply add this group after many decisions have been made.

In partnership with local Black leaders from the Black Rural South and other unserved areas, a state should develop a clear and detailed state Digital Equity and Inclusion program, and a detailed plan to apply for federal grants to promote digital equity.[33] Plans should ensure that all "community

[33] Infrastructure Investment and Jobs Act, Sec. 60304 (describing the State Digital Equity Capacity Grant Program); Sec. 60305 (describing the Digital Equity Competitive Grant Program).

anchor institutions" have high-speed internet (e.g., school, library, health clinic, HBCUs, public housing, community organizations like churches that facilitate greater broadband use by vulnerable populations (low-income, unemployed)). Rather than just build infrastructure to meet immediate needs, the plan should also develop "future-proof" networks that can meet the future needs/speeds of underserved areas. The plan should also include detailed strategies to provide communications, education, and support to help low-income families in the Black Rural South and elsewhere sign up for and take advantage of the Affordable Connectivity Program.[34] States should also establish clear goals for immediate deployment in unserved areas of the Black Rural South, including adoption by percentage of households and digital readiness programs and devices to ensure residents can actually use broadband. States should demonstrate a clear commitment to including Black workers, Black businesses, and others from underrepresented communities to build broadband infrastructure.

The FCC also has an important role, including but not limited to developing a user-friendly platform that allows non-technical community leaders to quickly identify concentrations of unserved locations from the FCC's Broadband DATA Maps project and ensure that such areas are included in state plans.

In reviewing BEAD proposals and overseeing deployment, NTIA should also give states incentives to include Black Rural South voices. NTIA should establish and enforce clear accountability procedures to ensure states and subgrantees: 1) actually comply with equity goals; 2) are properly spending money allocated to them under the "high-cost areas" provisions which

[34] Infrastructure Investment and Jobs Act, Sec. 60502.

will be allocated for build out in remote, less dense, high poverty areas;[35] and 3) are equitably investing the $100,000,000 allocated to each state into the Black Rural South.[36] NTIA should exercise oversight for state outreach and inclusion plans, and provide technical support to local leaders in the Black Rural South. NTIA should also encourage states to develop equitable plans that truly prioritize unserved areas by referencing the federal infrastructure law provision that provides for subcomponents (e.g., counties/cities) to apply for federal funds if a state does not apply or its application is not approved.[37]

Local leaders in the Black Rural South are also essential to equitable deployment. Local leaders should identify areas in their localities unserved by broadband, coordinate with local leaders from other unserved areas, and actively engage in the state planning process. In doing so, they should emphasize to state officials that an equitable buildout that prioritizes unserved areas benefits all in the state. For example, equitable buildout of broadband improves education, workforce skills, and small business growth, which all attract new industries, jobs, and tax revenue to the state. Equitable buildout facilitates telemedicine, which makes public health systems more effective and can cut health care costs. Local leaders should also enlist large companies in the state as allies in an equitable buildout, as companies may be receptive to these facts and enjoy significant relationships with state officials.

---

[35] Infrastructure Investment and Jobs Act, Sec. 60102 (a)(2)(G) (defining high-cost area); Sec. 60102 (c)(1) (allocating resources to unserved locations in high-cost areas).
[36] Infrastructure Investment and Jobs Act, Sec. 60102 (c)(2).
[37] Infrastructure Investment and Jobs Act, Sec. 60102 (c)(5)(B)(i) ("if an eligible entity fails to submit a covered application by the applicable deadline, or a covered application submitted by an eligible entity is not approved by the applicable deadline, a political subdivision or consortium of political subdivisions of the eligible entity may submit the applicable type of covered application in place of the eligible entity").

Local leaders should also modernize their permitting approval process. With limited local tax revenues, some localities may be slow in issuing permits for rights of way and pole attachments for infrastructure and may increase fees. Such actions could cause the localities to be deprioritized for broadband deployment, which could prevent residents of the area from realizing the economic, educational, and health benefits of broadband. Instead, localities in the Black Rural South should streamline their permitting approval processes by coordinating them (if multiple offices must approve permits), creating a database of pre-approved utility poles and right-of-way access, and adopting "dig-once" policies so that when roads are built plastic pipes are installed that can house fiber cables.

VII. Conclusion

The federal infrastructure law requires that states prioritize expanding broadband to unserved areas and represents a once-in-a-generation opportunity to expand broadband in the Black Rural South. Although Black households in the Black Rural South are disproportionately unserved by broadband, states could intentionally or inadvertently exclude these households from state deployment plans and expand racial disparities in broadband. State governments, the FCC, the NTIA, and local leaders in the Black Rural South all have important roles to play in mitigating the possibility of inequitable deployment.

Respectfully submitted,

Spencer Overton
President, Joint Center for Political and Economic Studies
Professor of Law, George Washington University
633 Pennsylvania Ave, NW
Washington, DC 20004